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7 Attorneys for Defendant
8 BAYER HEALTHCARE LLC,
erroneously sued as BAYER CORPORATION

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 BEN CASILLAS JR; APRIL CASILLAS;
12 SAUL SANCHEZ; and LILIAN SOTO,

13 No. 3:23-cv-01609-AMO (*Consolidated with*
14 *3:23-cv-02199-AMO*)

15 Plaintiffs,

16 vs.

17 BAYER CORPORATION and DOES 1 to
18 100, inclusive,

19 Defendants.

20 **DECLARATION OF FRANK KELLY IN
21 SUPPORT OF REVISED PROPOSED
22 STIPULATED PROTECTIVE ORDER**

23 APRIL CASILLAS, INDIVIDUALLY
24 AND AS THE SUCCESSOR-IN-
25 INTEREST OF BEN CASILLAS JR;
26 AND BEN CASILLAS, SR., AS
27 GUARDIAN AD LITEM FOR R. C., A
28 MINOR AND V. C., A MINOR,

29 Plaintiffs,

30 v.

31 BAYER CORPORATION and DOES 1 to
32 100, inclusive,

33 Defendants.

DECLARATION

I, Frank Kelly, declare and state as follows:

1. I am an attorney licensed to practice before all of the courts of the State of California, and am a partner of the law firm of Shook, Hardy & Bacon L.L.P., and counsel of record for Defendant Bayer Healthcare LLC, erroneously sued as Bayer Corporation (“Bayer”) in the above-titled action. This declaration is based upon my personal knowledge, except as to those matters stated on information and belief and, as to those matters, I believe them to be true. If called upon as a witness, I could and would competently testify as to the facts set forth therein.

2. Counsel for Plaintiffs Ben Casillas Jr. and Saul Sanchez (“Plaintiffs”) and Defendant Bayer Corporation (“Bayer”) (collectively, “the parties”) met and conferred regarding the necessity for entry of a Protective Order in this action. The Parties agreed to several necessary modifications to the Northern District of California’s Model Order. The Parties submit a stipulated Proposed Order with all additions and/or modifications to the Northern district of California Model Order in redline, filed concurrently with this Declaration. This Declaration, submitted pursuant to the Court’s Standing Order, explains these additions and/or modifications.

3. SECTION 2- the parties intend the additional definitions to add more clarity in an effort to prevent controversy related to privileges and protections and lead to more orderly resolution of issues.

4. SECTION 5.1- The parties intend the addition to paragraph 5.1 to add more detailed procedures in an effort to prevent controversy related to privileges and protections and lead to more orderly resolution of issues so that the parties do not unnecessarily involve the Court.

5. SECTION 5.2 (b)- The parties believe that the addition allowing for testimony to be designated as highly confidential by written notice is consistent with paragraph 5.3, which allows for timely corrections of inadvertent failures to designate qualified information

1 or items, and paragraph 6.2, which requires a party challenging a designation to provide written
2 notice of the challenge to the designating party.

3 6. SECTIONS 7.2 (h), (i), (j), 7.3, 7.4, 7.5- The parties agree that these provisions
4 related to retention of executed Acknowledgements allow for the parties and the Court to
5 ensure that there is an accurate and complete understanding of the third parties to whom
6 Protected Materials were disclosed.

7 7. SECTION 7.6- The parties recognize that Bayer may produce documents or
8 information in this case that, if obtained by competitors, would cause Bayer competitive harm.
9 Accordingly, the parties agree that disclosures should not be made to experts or consultants
10 employed by a competitor of Bayer.

11 8. SECTIONS 7.7 and 11- The parties intend paragraph 7.7 and paragraph 11 to add
12 more detailed procedures in an effort to prevent controversy related to privileges and protections and
13 lead to more orderly resolution of issues so that the parties do not unnecessarily involve the Court.

14 9. The Parties stipulate and agree that these additions and revisions to the Northern
15 District of California's Model Order are narrowly-tailored to the instant case, and will best
16 promote efficiency, fairness, and will reduce the likelihood of disputes that might otherwise
17 require the Court's intervention.

18 I declare under penalty of perjury that the foregoing is true and correct. Executed on
19 September 5, 2023.

20 */s/Frank Kelly*
21 Frank Kelly
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